

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF GENERAL SESSIONS
FOR THE SECOND JUDICIAL CIRCUIT

State of South Carolina,
Respondent,

v.

Barry Eugene Lafavor,
Appellant.

Indictment Nos. 2013-GS-02-00590, -00593
Appellate Case No. 2013-000568

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JUL 6 - 7 2015

ORDER

2012A0210900070
2012A0210200601
2012A0210200602
2012A0210200603

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Lein Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this 7 day of July, 2015.
Cheryl Westall
Deputy Clerk

This matter comes before the Court by way of a motion to reconstruct Court's Exhibit No. 2. On April 1, 2015, the South Carolina Court of Appeals issued an order granting Appellant's motion to remand this case to the circuit court to reconstruct the exhibit. On April 13, 2015, Cheryl Westall, the Deputy Clerk of Court for General Sessions in Aiken County, notified this Court and the parties that Court's Exhibit No. 2, which contains Department of Social Services records, had been located and had not been destroyed as previously stated. Ms. Westall indicated through a sworn affidavit that only duplicate copies of the Department of Social Services records had been destroyed per the order of the Honorable Doyet A. Early, III and that Court's Exhibit No. 2 was secure in the "Exhibit Safe" located at the Aiken County Clerk of Court's Office.

On May 1, 2015, a hearing was held before this Court in Aiken County where Court's Exhibit No. 2 was unsealed and reviewed by the parties. The parties agreed on the record that the exhibit contained the Department of Social Services records that were originally placed under seal by this Court during Appellant's trial in June 2013 and that reconstruction was not needed. Thus, this Court finds reconstructing Court's Exhibit No. 2 is unnecessary and that the exhibit has been located and is secure.

Copies: Solicitor (Ashley)
: Sara M. Condy (SCCID)
: P.D. (m. Rutzong)

July 6 2015
Lein Godard
C.C.C.P. & G.S.
Cheryl Westall
Deputy Clerk

2013-GS-02-00590-593, 00593

It is the order of this Court that Court's Exhibit No. 2 continue to be maintained under seal by the Aiken County Clerk of Court until further order by the South Carolina Court of Appeals.

IT IS SO ORDERED.



Michael G. Nettles
Circuit Court Judge

Aiken, South Carolina

This 30 day of ~~May~~^{June}, 2015

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)
THE STATE,)
)
Respondent,)
)
v.)
)
BARRY EUGENE LAFAVOR)
)
Appellant,)
-----)

IN THE SOUTH CAROLINA COURT OF APPEALS

AFFIDAVIT OF
CHERYL WESTALL

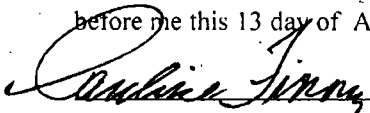
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JUL 10 2015
SC Court of Appeals

PERSONALLY appeared before me, Cheryl Westall, who being duly sworn, deposes and says:

1. I am the Deputy Clerk of Court for General Sessions in Aiken County.
2. The order signed by the Honorable Doyet A. Early, III on June 19, 2013 stated, "That upon final resolution of the case, all DSS records shall be collected, sealed, and maintained by the Aiken County Clerk of Court in a manner protecting the confidentiality of the records and opened only upon Order of this Court for good cause shown."
3. However, on July 9, 2013, Judge Early amended this order and allowed the Clerk of Court to destroy all copies that were given out to the defense and state attorneys of the DSS records and to return the "original copies" of the records to a representative of DSS.
4. All defense and state attorney copies of the DSS records were destroyed by the Clerk of Court on July 9, 2013.
5. The "original copies" of the DSS records were returned to a representative of DSS on or about July 9, 2013.
6. However, the Courts Exhibit #2 (Copy of Protective Order of DSS Records) is secure in the "Exhibit Safe" located at the Aiken County Clerks of Courts Office.
7. I apologize to the Court and Attorneys for the confusions this has caused in my misunderstanding the given request for copies not an Exhibit.


Cheryl Westall

SUBSCRIBED AND SWORN TO
before me this 13 day of April, 2015

 (L.S.)

Notary Public for South Carolina

My Commission Expires:

4/1/2021

ORIGINAL



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

July 10, 2015

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JUL 10 2015

SC Court of Appeals

Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: State v. Barry Eugene Lafavor, Appellate Case No. 2013-000568

Dear Ms. Kitchings:

On April 1, 2015, the Court granted Appellant's motion to remand the above referenced case to the circuit court to reconstruct Court's Exhibit No. 2. Please accept this letter as a status update.


On April 13, 2015, Cheryl Westall, the Deputy Clerk of Court for General Sessions in Aiken County, notified the Honorable Michael G. Nettles and the parties that Court's Exhibit No. 2, which contains Department of Social Services (DSS) records, had been located and had not been destroyed as she previously stated. Ms. Westall indicated through a sworn affidavit that only duplicate copies of the DSS records had been destroyed per the order of the Honorable Doyet A. Early, III and that Court's Exhibit No. 2 was secure in the "Exhibit Safe" located at the Aiken County Clerk of Court's Office. I have enclosed a copy of this affidavit for this Court's review.

On May 1, 2015, a hearing was held before Judge Nettles in Aiken County where Court's Exhibit No. 2 was unsealed and reviewed by the parties. The parties agreed on the record that the exhibit contained all of the DSS records that were originally placed under seal by Judge Nettles during Appellant's trial in June 2013. Judge Nettles issued a written order filed July 6, 2015 finding reconstruction of Court's Exhibit No. 2 was unnecessary as the exhibit was secure at the Aiken County Clerk of Court's office. He further ordered that the exhibit remain under seal in Aiken County until further order by this Court. I have also enclosed a certified copy of Judge Nettles' order for this Court's review.

I will file a motion to transport and unseal Court's Exhibit No. 2 today. I would like to review the DSS records to determine whether any issue related to the exhibit should be filed as part of Appellant's direct appeal.

If the Court requires additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Lara M. Caudy". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Lara M. Caudy
Appellate Defender

LMC/pcm

cc: Salley W. Elliott, Esquire (w/ enclosures)

Enclosures